

United States District Court
For the Northern District of California

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6 CALIFORNIA HOUSING
7 FINANCE AGENCY,

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10 No. C 12-00105 WHA

11 Plaintiff,

12 **ORDER REMANDING ACTION**

13 v.

14 CECIL DARYL BROWNING, VICKIE
15 LYNN BROWNING, and DAVID
16 HERRERA,

17 Defendants.
18 _____ /

19 On January 5, 2012, *pro se* defendant David Herrera removed this unlawful detainer
20 action to federal court on the basis of federal question jurisdiction. The complaint alleges a
21 violation of California Code of Civil Procedure Section 1161a. There is no question of federal
22 law. Plaintiff California Housing Finance Agency filed a motion to remand on March 29, 2012.
23 No opposition was filed by defendants. On April 13, 2012, an order to show cause issued,
24 stating the motion to remand may be granted if no opposition was filed. Defendants failed to
25 respond to the order to show cause. A case management conference was scheduled for April 5,
26 2012. No one appeared except a substitute attorney for plaintiff's attorney. An order to show
27 cause issued ordering defendants to appear for a hearing on May 3, 2012 to show cause why they
28 should not be held in contempt for failing to attend the conference. That same order continued
the case management conference to May 3. No one appeared for the case management
conference set for May 3.

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1 “Removal statutes are strictly construed against removal.” *Luther v. Countrywide Home*
2 *Loans Servicing, LP*, 533 F.3d 1031, 1034 (9th Cir. 2008). Defendants have failed to oppose the
3 motion to remand and show that removal of this unlawful detainer action is proper. The motion
4 to remand the action to state court is **GRANTED**. The Clerk shall remand this action to the
5 Superior Court of California, County of Contra Costa.

6 Plaintiff California Housing Finance Agency seeks attorney's fees and costs incurred in
7 filing the motion to remand in the amount of \$2,000. Defendants are all proceeding *pro se* and
8 defendant David Herrera has been granted in forma pauperis status. While the delay in the case
9 due to the pending motion to remand is regrettable, no attorney's fees will be awarded against
10 our *pro se* defendants, at least one of whom is indigent. Moreover, plaintiff's attorney failed to
11 attend both the initial and rescheduled case management conference. The request for attorney's
12 fees is **DENIED**.

IT IS SO ORDERED.

16 || Dated: May 4, 2012.

**WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE**